

1460-130.00
02-011-0400

CERTIFICATE OF MAILING (37 CFR 1.10)

I hereby certify that this correspondence, including documents referred to below as enclosed herewith, is being deposited on January 2, 2004 with the United States Postal Service in an envelope marked as "Express Mail Post Office to Addressee," mailing Label Number EV065432036US addressed to the Commissioner of Patents, Mail Stop Licensing & Review, Washington, D.C. 20231.

By: Marcee Lundeen
Marcee Lundeen

RECEIVED
JAN 19 2004
LICENSING & REVIEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION	§	ATTY DOCKET NO.:
	§	02-0708/KEL 99
INVENTOR:	§	
Theodor Robert Wilks et al	§	
SERIAL NO.: 10/605,155	§	
FILED: September 11, 2003	§	GROUP ART UNIT: 1621
FOR: LOW SODIUM CLEAVAGE	§	
PRODUCT	§	

PETITION FOR RETROACTIVE FOREIGN FILING LICENSE OF
U.S. SER. NO. 10/605,155

Dear Sir:

Applicant hereby petitions the Commissioner to grant a retroactive foreign filing license for U.S. Patent Application No. 10/605,155 to be retroactively effective on September 11, 2003. This petition is accompanied by:

1. The retroactive license petition fee set forth in §1.17(h) in the amount of \$130.00;

2. The declaration of Valerie Driver showing that the requirements of 37 C.F.R. §5.25 have been met and the retroactive foreign filing license should be granted.
3. A copy of each letter of transmittal submitted to a foreign agent requesting filing of the foreign applications prior to October 15, 2003.
4. Copies of the filing receipt licenses for U.S. Ser. No. 60/319,619 filed October 15, 2002, and U.S. Ser. No. 10/605,155 filed September 11, 2003.
5. A copy of the material that was filed abroad without a foreign filing license as to any new matter.

REMARKS

Application U.S. Ser. No. 10/605,155 was filed electronically on September 11, 2003 in the United States. This application corresponds to provisional application U.S. Ser. No. 60/319,619 filed October 15, 2002, but contains new matter similar in nature to that of the provisional. A foreign filing license was granted for the provisional application on November 5, 2002, and another foreign filing license was granted for the non-provisional application on or about December 1, 2003.

This was the first use of provisional applications combined with foreign filing by the applicant's assignee. The patent specialist who requested the foreign filings on behalf of assignee, Valerie Driver, did not realize that new material may have been added to the non-provisional patent application that may have required obtaining a new foreign filing license prior to filing the non-provisional application in foreign countries. It was thought that the license granted from the provisional application would be acceptable for filing the non-provisional application as well.

Ms. Driver was using well-known docketing software for intellectual property legal departments. However, this software does not support the entry of foreign filing license information. The additional protection of automated software addressing foreign filing licenses was not available to Ms. Driver for this situation.

If Ms. Driver had known an additional foreign filing license would be necessary, then there would have been time to obtain an expedited license and still have the foreign applications filed by the October 15, 2003 deadline to obtain the priority of the provisional application. Because of this error, the below foreign filings were all filed in an expedited manner such that they would be filed within one (1) year of the filing of the provisional application.

COUNTRY/PATENT OFFICE	APPLICATION DATE	APPLICATION NO.
U.S. (non-provisional)	September 11, 2003	10/605,155
U.S. (provisional)	October 15, 2002	60/319,619
Brazil	October 14, 2003	Not yet available
China	September 23, 2003	03132746.X
European Patent Office	October 9, 2003	03 022 968.6
India	September 19, 2003	488/KOL/2003
Japan	October 14, 2003	2003-387230
South Korea	October 15, 2003	2003-71698
Taiwan	September 22, 2003	92126239

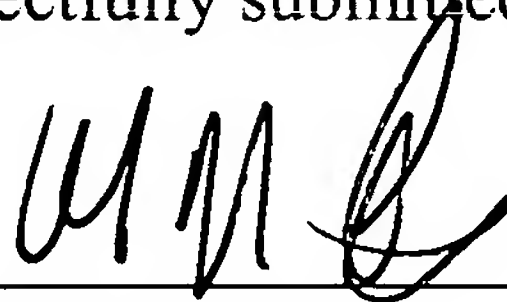
Note that all transmittal letters written to foreign associates requesting the filing in their respective countries state the deadline to be October 15th,

2003. These transmittal letters were dated within one (1) week after the non-provisional U.S. application was filed. There was no intent to deceive the United States Patent and Trademark Office.

Furthermore, petitioner has diligently sought the necessary license upon discovering this error as required by 37 CFR §5.25. The error was discovered during efforts to obtain certified copies of the non-provisional application on an expedited basis for foreign filing deadlines on or about December 1, 2003. Until this point, it was thought that the foreign filing license for the provisional patent covered the non-provisional patent as well. The circumstances surrounding the foreign filings show no intent to deceive the United States Patent and Trademark Office. Diligence is shown by the fact that this petition is filed in just a little more than one month since it was first discovered that a foreign filing license may be required.

It is respectfully requested that the Commissioner grant this petition and provide a foreign filing license retroactively effective as from September 11, 2003. Please charge any fees to deposit account 11040.

Respectfully submitted,



Daniel N. Lundeen
Patent Reg. No. 31,177
LUNDEEN & DICKINSON, L.L.P.
P.O. Box 131144
Houston, Texas 77219-1144
(713) 652-2555 Telephone
(713) 652-2556 Facsimile